

**IN THE UNITED STATES
PATENT AND TRADEMARK OFFICE**

Patent Application

Inventor(s):	Yoad Gidron et al.	Serial No.:	10/573,832
Case:	Mobilitec 5	Filed:	12/05/2006
Examiner:	Choo, Munsoon	Group Art Unit:	2617
Confirmation #:	5200		

Title: SERVICE PLATFORM FOR CELLULAR TELEPHONY

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SIR:

REPLY BRIEF

Appellant submits this Reply Brief to the Board of Patent Appeals and Interferences in response to the Examiner's Answer, dated September 17, 2010, in the Appeal of the above-identified application.

An Appeal Brief filing fee has been paid. Appellants do not believe that any fees are due. In the event Appellants are incorrect, the Commissioner is authorized to charge any other fees to Deposit Account No. 50-4802/ALU/MOBILITEC5.

REMARKS

Appellant's response to the Examiner's Answer is provided hereinbelow.

Section 10 (Response to Arguments)

In Section 10 (Response to Arguments) of the Examiner's Answer, the Examiner purports to provide answers to the arguments made by the Appellant in the Appeal Brief filed for the above-identified application. Appellant addresses the Examiner's answers hereinbelow.

Examiner's Assertions Regarding Application and References

In the Examiner's Answer, the Examiner begins by making some general assertions regarding Appellant's application and the cited reference, Kloba. Specifically, on page 20, the Examiner states:

Kloba teaches the **server is an infrastructure/structure/framework** to manage (support) the "collection of channels". In current case, figure 1 teaches that "generic definition" has provisioning sub-module/function. Kloba's "collection of channels" is generic definition because it has provisioning function and it provides services to the mobile users. In claim 36, generic definition is defined as a **standard definition of the (cellular) service. Therefore, Kloba's server is an infrastructure supporting a generic definition of cellular service.** Kloba teaches the user can modify/edit the (service) channel's name and properties. Each channel has different **names** or properties to **define** itself; therefore, "collection of channels" has standard definitions, such as channel's name, to define the channel, thus is a generic definition. The collection of channels has many different channels, such as movie, music and image channels, and each of said channels has common feature, such as "finding" movie, music and/or image. The user can input "movie" text into the device, which sends the "movie" parameter to the "collection of channels", thus teaches "collection of channels" can take the movie parameter that defines movie service.

On page 24, the Examiner adds:

Examiner basically interprets "generic definition" according to claim 36. In this situation, Examiner will have to define "generic definition" through the word definition of (1) "generic" and "definition" or (2) through what "generic definition" does in independent claim 36. First (1), collection of channel has a general/generic defining/definition/naming of the channels/services, thus is a generic definition, see P [349]-[355], "where the user can edit the channel parameters settings such as channel name" and P [111] for "adding channels to the collection of channels maintained by the server"; second (2), in independent claim 36, "generic definition" is implicitly defined as an object that incorporates common features of different services. Kloba teaches that "collection of channel" is an object just like "generic definition" that incorporates different services, see P [101] for services, movies services, music services; wherein said services are

going to have common/ general/well-know/obvious features/functions such as displaying business information, news and weather in fig. 1 AB, and finding movies in fig. 13.

Per MPEP §2145 (VI), the claims are interpreted in light of the specification. Further, according to MPEP §2111.01(IV):

“Where an explicit definition is provided by the Applicant for a term, that definition will control interpretation of the term as it is used in the claim.”

As previously articulated in the Appeal Brief, the specification provides a clear context for persons skilled in the art to understand the term “generic definition” as comprising availability, discoverability, findability, buyability, and obtainability. It is entirely appropriate when conducting claim construction, to rely heavily on the written description for guidance as to the meaning of the claims. Importantly, the person of ordinary skill in the art is deemed to read the claim term not only in the context of the particular claim in which the disputed term appears, but *in the context of the specification.*” *Phillips v. AWH Corp.*, 415 F.3d 1303, 1316 (Fed. Cir. 2005) (*en banc*). Indeed, the *Phillips* Court stressed that “the specification is always highly relevant to the claim construction analysis. Usually, it is dispositive; it is the single best guide to the meaning of a disputed term.” *Id.* at 1315 (quotation omitted). Accordingly, “[i]t is therefore entirely appropriate . . . when conducting claim construction, to rely *heavily* on the written description for guidance as to the meaning of the claims.” *Id.*, 415 F.3d at 1317, 75 U.S.P.Q.2d 1329 (citation omitted, emphasis added).

Stated differently, since the *Phillips* Court requires the Examiner to “rely heavily on the written description for guidance as to the meaning of the claims,” it is not proper to impute to a claim term any meaning or scope that is inconsistent with the guidance provided in a written description as to the meaning of the claims. In the instant case, the Examiner incorrectly imputes “a collection of channels” to the claimed “a generic definition.”

Thus, the Examiner’s interpretation of a claim term cannot contradict the use of that term within “the context of the entire patent, including the specification.” The Examiner’s claim construction appears flawed.

Appellants have, thus shown that there are missing claimed features not taught or suggested by the cited reference; and thus, claim 36 has been erroneously rejected under 35 U.S.C. §102(e).

Examiner's Assertions Regarding Generic Definition

On page 25 of the Examiner's Answer, the Examiner writes:

"This definition of "generic definition" isn't found in independent claim 36. Appellant needs to put this definition into claim 36 in order to argue this limitation for said claim 36. In claim 36, Examiner finds out that "generic definition" is implicitly defined as (1) "an object that incorporates common features of different services;" (2) "an object that can take specific service-defining parameters;" and in dependent claim 37, "generic definition" is implicitly defined as (3) "an object that comprises an ability to select between one of a plurality of levels of complexity of content presentation according to a determined capability level of a receiving telephone."

Claim 36 is reproduced below for ease of comparison. As the Examiner indicates, claim 36 clearly delineates the features of a generic definition of a cellular service. The specification simply provides the context expressed in a preferred embodiment for the claim and certain features are explained in greater details. For example, on page 3 beginning at line 1, the specification discloses:

"Provisioning refers to the availability of the service an entity on the network. Discoverability refers to the need for a service to make users aware of its existence. Findability is the way in which users, aware of the existence of the service, can find the service. Buyability refers to the financial conditions under which the service is made available to the consumer, and finally obtainability refers to the way in which the consumer can actually obtain the service. All of these features are generic to content services provided over the cellular network and in the prior art are designed and integrated independently for each service."

It would be impractical to include all these definitions in the claim. Thus, the claim is interpreted in light of the specification.

36. (Previously Presented) Apparatus providing a platform for the provision of services over a cellular telephone network, the apparatus comprising
an infrastructure for supporting a generic definition of a cellular service, said generic definition incorporating common features of different services, said generic definition being able to take specific service-defining parameters, wherein the

infrastructure facilitates the delivery of multiple content types to different devices using different protocols; and

an external parameter setting mechanism for inputting respective service defining parameters to said generic definition, thereby to implement a desired service through said generic definition, said generic definition includes consideration of resource constraints of the different devices.

Claim 37 is a dependent claim, which further limits independent claim 36. As stated above, claim 37 does not provide a definition, but instead the claim recites a feature further limiting the same feature recited in independent claim 36.

Conclusion

Thus, Appellants submit that all of the claims presently in the application are allowable.

For the reasons advanced above, Appellants respectfully urge that the rejection of claims 36-54 and 56-68 is improper. Reversal of the rejection of the Office Action is respectfully requested.

Respectfully submitted,

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